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Section 1 - Definitions

In this chapter, unless the context or subject matter requires otherwise:

1. "Accrual basis" means the recording of revenue in the period when it is earned, regardless of when it is collected, and the recording of expenses in the period when incurred, regardless of when they are paid.
2. "Allowable cost" means the program's actual and reasonable cost after appropriate adjustments for nonallowable costs, income, offsets, and limitations.
3. "Bad debts" means those amounts considered to be uncollectible from accounts and notes receivable which were created or acquired in providing services.
4. "Board" means all food and dietary supply costs.
5. "Clients" means eligible developmentally disabled persons on whose behalf services are provided or purchased.
6. "Consumer" means a developmentally disabled person.
7. "Consumer representative" means a parent, guardian, or relative, to the third degree of kinship, of a developmentally disabled person.
8. Vacated
9. "Cost center" means a division, department, or subdivision thereof, group of services or employees or both, or any unit or type of activity into which functions of an institution are divided for purposes of cost assignment and allocations.
10. "Cost finding" means the process of analyzing the data derived from the accounts ordinarily kept by the provider to ascertain costs of the various types of services rendered; it is the determination of these costs by the allocation of direct costs and proration of indirect costs.
11. "Department" means department of human services.
12. "Documentation" means the furnishing of written records including, but not limited to, original invoices, contracts, timecards, and workpapers prepared to complete reports or for filing with the department.

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13. "Fair market value" means value at which an asset could be sold in the open market in an arms-length transaction between unrelated parties.
14. "Generally accepted accounting principles" means the accounting principles approved by the American institute of certified public accountants.
15. "Historical cost" means those costs incurred and recorded on the facility's accounting records as a result of an arm-length transaction between unrelated parties.
16. "Individual service plan " means an individual plan which identifies service needs of the eligible client and the services to be provided, and which is developed by the mental retardation-developmental disabilities case manager and the client or that client's legal representative, or both, considering all relevant input.
17. Vacated
18. "Interest" means the cost incurred with the use of borrowed funds.
19. "Net investment in fixed assets" means the cost, less accumulated depreciation and the balance of notes and mortgages payable.
20. "Reasonable cost" means the cost that must be incurred by an efficiently and economically operated facility to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.
21. "Related organization" means an organization which a provider is, to a significant extent, associated with, affiliated with, able to control, or controlled by, and which furnishes services, facilities, or supplies to the provider. Control exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the action or policies of an organization or institution.
22. "Room" means the cost associated with the provision of shelter and the maintenance thereof, including depreciation and interest or lease payments of a vehicle used for transportation of residents.
23. "Service" means the provision of living arrangements and programs of daily activities subject to licensure by the department.
24. "Staff training" means an organized program to improve staff performance.
25. "Units of service" for billing purposes means, in residential settings, one person served for one 24-hour day and in day service settings, one person served for one 8-hour day, Monday through Friday. The day of admission, but not the day of discharge, is treated as a day served.

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26. The following definitions relate to production activities:

- a. "Mean productivity percentage" means total normal production hours divided by total available hours in work activity.
- b. "Normal production hours" means the actual production hours worked by a client multiplied times a client's productivity percentage.
- c. "Clients productivity percentage" means a percentage developed using 29 CFR 525.9.
- d. "Available hours" means the number of hours per day that clients are in work activity.
- e. "Facility-based" means production work that occurs within a licensed workshop.
- f. "Non facility-based" means production work that occurs outside a licensed workshop.

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Section 2 - Eligibility for Reimbursement

Providers of service are eligible for reimbursement for the costs of rendered services contingent upon the following:

1. The provider, other than a state owned or operated provider, holds, and is required to hold, a current valid license, issued pursuant to the provisions of NDAC chapter 75-04-01 "Licensing of programs and services for persons with Developmental Disabilities" authorizing the delivery of the service, the cost of which is subject to reimbursement.
2. The provider's clients have on file with the department a current individual service plan.
3. The provider has a current valid purchase of service agreement with the department.
4. The provider adopts and uses a system of accounting prescribed by the department.
5. The provider participates in the program audit and utilization review process established by the department.
6. The provider is in compliance with NDAC chapter 75-04-02. (Appendix C)
7. Providers, as a condition of eligibility for reimbursement for the cost of services for developmentally disabled persons, must accept, as payment in full, sums paid in accordance with the final rate of reimbursement.
8. Providers must obtain approval from the department for addition of square footage if the cost of the additional space is to be reimbursed by the department.

Section 3 - (Vacated)

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Attachment 4.19-D
Sub-section 2

Section 4 - (Vacated)

Section 5 - (Vacated)

Section 6 - (Vacated)

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Section 7 - (Vacated)

Section 8 - Financial Reporting Requirements

1. Records.

- a. The provider shall maintain on the premises the required census records and financial information sufficient to provide for a proper audit or review. For any cost being claimed on the cost report, sufficient data must be available as of the audit date to fully support the report item.
- b. Where several programs are associated with a group and their accounting and reports are centrally prepared, additional fiscal information shall be submitted for costs, undocumented at the reporting facility, with the cost report or provided prior to the audit or review of the facility. Accounting or financial information regarding related organizations must be readily available to substantiate cost.
- c. Each provider shall maintain, for a period of not less than five years following the date of submission of the cost report to the department, financial and statistical records of the period covered by such cost report which are accurate and in sufficient detail to substantiate the cost data reported. If an audit has begun, but has not been finally resolved, the financial and statutory records relating to the audit shall be retained until final resolution. Each provider shall make such records available upon reasonable demand to representatives of the department or to the secretary of health and human services or representatives thereof.

2. Accounting and Reporting Requirements.

- a. The accounting system must be double entry.
- b. The basis of accounting for reporting purposes must be accrual in accordance with generally accepted accounting principles. Ratesetting procedures shall prevail if conflicts occur between ratesetting procedures and generally accepted accounting principles.

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- c. To properly facilitate auditing, the accounting system must be maintained in such a manner that cost accounts will be grouped by cost center and be readily traceable to the cost report.
 - d. The forms for annual reporting for reimbursement purposes must be the report forms designated by the department. The statement of budgeted costs must be submitted to the developmental disabilities division at least sixty days before the end of the facility's normal accounting year reflecting budgeted costs and units of service for establishing an interim rate in the subsequent year. The statement of actual costs must be submitted on or before the last day of the third month following the end of the facility's normal accounting year. The report must contain the actual costs, adjustments for nonallowable costs, and units of service for establishing the final rate.
 - e. The mailing of cost reports by registered mail, return receipt requested, will ensure documentation of the filing date.
 - f. Costs reported must include all actual costs and adjustments for nonallowable costs. Adjustments made by the audit unit, to determine allowable cost, though not meeting the criteria of fraud or abuse on their initial identification, may be considered as possible fraud or abuse. The audit unit will forward all such items identified to the appropriate investigative unit.
3. Auditing. In order to properly validate the accuracy and reasonableness of cost information reported by the service provider, the department will provide for audits as necessary.
4. Penalties.
- a. If a provider fails to file the required statement of budgeted costs and cost report on or before the due date, the department may invoke the following provisions:
 - (1) After the last day of the first month following the due date, there will be a nonrefundable penalty of ten percent of any amount claimed for reimbursement.
 - (2) The penalty continues through the month in which the statement or report is received.
 - b. At the time of audit and final computation for settlement, the department may invoke a penalty of five percent of a provider's administrative costs for the period of deficiency if:

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- (1) Poor or no daily census records are available to document client units. Poor census records exist if those records are insufficient for audit verification of client units against submitted claims for reimbursement.
 - (2) After identification and notification through a previous audit, a provider continues to list items exempted in audit as allowable costs on the cost report.
 - (3) The provider fails the certification requirements one hundred twenty days after the initial startup date or is decertified after having been previously certified.
- c. Penalties may be separately imposed for each violation.
- d. A penalty may be waived by the department upon a showing of good cause.

Section 9 - Rate Payments

1. Interim rates based on factors including budgeted data, as approved, will be used for payment of services during the year.
2. Income from client production must be applied to client wages and the cost of production. The department will not participate in the gains or losses associated with client production conducted pursuant to the applicable provision of 29 CFR 525.
3. The final rate established is payment of all allowable, reasonable, and actual costs for all elements necessary to the delivery of a basic service to eligible clients subject to limitations and cost offsets of this chapter.
4. No payments may be solicited or received by a provider from a client or any other person to supplement the final rate of reimbursement.

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5. The rate of reimbursement established must be no greater than the rate charged to a private payor for the same or similar service.
6. The department will determine interim and final rates of reimbursement for continuing contract providers based upon cost data from the:
 - a. Submission requirements of section 2; and
 - b. Field and desk audits.
7. Rates of continuing service providers, except for those identified in subdivision f of subsection 3 of Section 10, will be based on the following:
 - a. Rate for continuing service providers, who have had no increase in the number of clients the provider is licensed to serve, will be based upon ninety-five percent of the rated occupancy established by the department or actual occupancy, whichever is greater.
 - b. Rates for continuing service providers, who have an increase in the number of clients the provider is licensed to serve in an existing service, will be based upon:
 - (1) Subdivision a for the period until the increase takes effect; and
 - (2) Ninety-five percent of the projected units of service for the remaining period of the fiscal year based upon an approved plan of integration or actual occupancy, whichever is greater.
 - c. When establishing the final rates, the department may grant nonenforcement of subdivisions a and b of subsection 7 when it determines the provider implemented cost containment measures consistent with the decrease in units, or when it determines that the failure to do so would have imposed a detriment to the well-being of its clients.
 - (1) Acceptable cost containment measures include a decrease in actual salary and fringe benefit costs from the approved salary and fringe benefits costs for the day service or group home proportionate to the decrease in units.
 - (2) Detriment to the well-being of clients includes a forced movement from one group home to another or obstructing the day service movement of a client in order to maintain the ninety-five percent rated occupancy requirement.

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